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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,936	06/23/2003	Billy Joe Ratliff, JR.	DN2003097	7817

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THE GOODYEAR TIRE & RUBBER COMPANY  
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EXAMINER

MAKI, STEVEN D

ART UNIT PAPER NUMBER

1733

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/601,936	RATLIFF,, BILLY JOE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Steven D. Maki	1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>110104.062303</u> .   | 6) <input type="checkbox"/> Other: ____.                                    |

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1) The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "22" has been used to designate "apex" and "sipes" and "sides". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2) The description of the copending application in paragraph 37 of the specification should be updated.

3) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4) Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6, it is unclear how many ribs are being claimed. In claim 6, it is suggested to change "the ribs" on line 3 to --the rib--.

5) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7) **Claims 1-4, 6-8, 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Japan 919 (JP 2002-103919).**

Japan 919 is discussed in more detail below. The claimed tire is anticipated by Japan 919's tire having the figure 1 or figure 2 tread pattern. In figure 1, the claimed rib chamfers read on the beveled corners 23. In figure 2, the rib chamfers read on the false land parts 26.

8) **Claims 1-8, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan 919 (JP 2002-103919) in view of at least one of Europe 971 (EP 1075971), Himuro 892 (US 2002/0062892) and Japan 513 (JP 2002-240513).**

Japan 919, directed to satisfying driving / braking performance on ice / snow and drainage performance at good balance, discloses a pneumatic tire having a tread comprising at least one circumferential rib having v-shaped sipes spaced at a spacing / pitch for example of 5.8 mm. Japan 919 teaches promoting drainage of water using "false land parts" 26 attached to the walls 27a, 27b of the rib wherein the height of the "false land parts" decreases from the rib wall toward the groove bottom.

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Japan 919 is considered to anticipate claim 1. In any event: As to claims 1-5, it would have been obvious to one of ordinary skill in the art to provide Japan 513's rib with "rib chamfers" as claimed in view of (1) Japan 919's teaching to provide the rib with "false land parts" for improving water drainage and (2) at least one of (a) Europe '971's teaching to provide a rib 8 with pseudo land parts ("rib chamfers") 11 to improve water drainage, (b) Himuro '892's teaching to provide a rib as shown in figure 3 with pseudo land parts ("rib chamfers") 14a to improve water drainage and (c) Japan 513's teaching to provide a rib with recessed parts ("rib chamfers") 28 for improving water drainage. As to claim 5, Europe 971 teaches increasing height (figures 2a-2c) and decreasing height (figures 5a-5c).

As to claim 7, the sipes in Japan 919's rib are v-shaped.

As to claim 8, Japan 919's rib is on the EP.

As to claim 13, the claimed angle of 45-90 degrees would have been obvious in view of the inclination of the short side of the "rib chamfer" suggested by Europe 971, Himuro 892 or Japan 513.

As to claim 15, the claimed opposing inclined circumferentially extending edges would have been obvious in view of the oppositely inclined long sides of the "rib chamfers" suggested by Europe 971, Himuro 892, or Japan 513.

**9) Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan 919 in view of at least one of Europe 971, Himuro 892 and Japan 513 as applied above and further in view of Nakagawa (US 2003/019555) or Japan 225 (JP 2202-29225).**

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As to claims 9-12, it would have been obvious to one of ordinary skill in the art to use two or three of Japan 919's ribs having v-shaped sipes in view of (1) Japan 919's teaching to use at least one rib having the v-shaped sipes and (2) (a) Nakagawa's suggestion to use two ribs having v-shaped sipes for a tire or (b) Japan 225's suggestion to use two or three ribs having v-shaped sipes.

**10) Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japan 919 in view of at least one of Europe 971, Himuro 892 and Japan 513 as applied above and further in view of Hopkins et al (Us 4926919).**

As to claim 14, it would have been obvious to one of ordinary skill in the art to form Japan 919's rib such that the circumferentially extending sides are inclined in the same direction as claimed in view of the shape of the sides of the siped ribs suggested by Hopkins et al.

11) The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

copending 10/601986

**12) Claims 1 and 2 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 8 of copending Application No. 10/601986.**

Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of this application fails to exclude the slant grooves and a block chamfer being axially adjacent the rib chamfer as in claims 1,8 of copending 10/601986. The limitation of claim 2 would have been obvious since claim 8 of copending 10/601986 recites using both rib chamfers and sipes.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

**13) Claims 3-6 and 13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 8 of copending Application No. 10/601986 as applied above and further in view of Europe 971.**

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

As to claims 3-6 and 13, the claimed rib chamfers would have been obvious in view of the rib chamfers of claims 1, 8 of copending 10/601986 and the configuration of the pseudo land parts (rib chamfers) suggested by Europe 971.

**14) Claims 7-8 and 15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims**

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**1, 8 of copending Application No. 10/601986 as applied above and further in view of Japan 919.**

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

As to claims 7-8 and 15, the claimed sipe shape, rib location and inclination of circumferential extending edges would have been obvious in view of the use of sipes in a rib in claims 1, 8 of copending 10/601986 and Japan 919's suggestion to use v-shaped sipes in a rib on the EP as shown in figure 1.

**15) Claim 14 is are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 8 of copending Application No. 10/601986 as applied above and further in view of Hopkins et al.**

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

As to claim 14, the claimed same inclination circumferentially extending edges would have been obvious in view of the use of sipes in a rib of copending 10/601986 and the configuration siped rib shown by Hopkins et al.

copending 10/601504

**16) Claim 1-4 and 6 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3-5 of copending Application No. 10/601504.**



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Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of this application fails to exclude slant grooves and sipe spacing increasing toward the tread shoulders as in claims 1, 3-5 of copending 10/601504.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

**17) Claims 5 and 13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3-5 of copending Application No. 10/601504 as applied above and further in view of Europe 971.**

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

As to claims 5 and 13, the claimed rib chamfers would have been obvious in view of the rib chamfers of claims 1, 3-5 of copending 10/601504 and the configuration of the pseudo land parts (rib chamfers) suggested by Europe 971.

**18) Claims 7-8 and 15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3-5 of copending Application No. 10/601504 as applied above and further in view of Japan 919.**

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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As to claims 7-8 and 15, the claimed sipe shape, rib location and inclination of circumferential extending edges would have been obvious in view of the use of sipes in a rib in claims 1, 3-5 of copending 10/601504 and Japan 919's suggestion to use v-shaped sipes in a rib on the EP as shown in figure 1.

19) **Claim 14 is are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3-5 of copending Application No. 10/601504 as applied above and further in view of Hopkins et al.**

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

As to claim 14, the claimed same inclination circumferentially extending edges would have been obvious in view of the use of sipes in a rib in clams 1, 3-5 of copending 10/601504 and the configuration siped rib shown by Hopkins et al.

#### Remarks

20) The remaining references are of interest.

21) No claim is allowed.

22) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

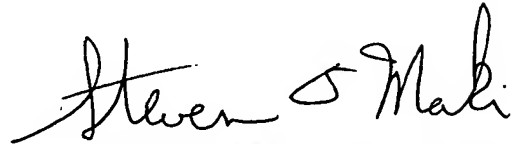
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki  
February 21, 2005

  
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PRIMARY EXAMINER  
~~GROUP 1300~~  
AU 1733